

**FUNERAL DIRECTORS EXAMINING BOARD MEETING
MINUTES
NOVEMBER 13, 2002**

PRESENT: William Cress, Bonnie Gift, Ronald Malone, Roy Pfeffer, Robert Skinner and Rick Unbehaun,

STAFF PRESENT: Clete Hansen; Myra Shelton, Jack Temby, Henry Sanders, and Willie Garrette for a portion of the meeting

GUESTS: Barbara Schuler, Wisconsin Technical College System
Erin Longmire, Funeral Service Alliance of Wisconsin (FSA)
Mark Paget, Wisconsin Funeral Directors Association (WFDA)
William J. Dyess (until 11 a.m.)
Minnie Brye
Clyde Austin, Funeral Director (until 11 a.m.)
Christine Jacob, Funeral Director
Mark Krause, Funeral Director

CALL TO ORDER

Roy Pfeffer, Chair, called the meeting to order at 9:35 a.m. A quorum of 5 members was present. Ron Malone arrived at 9:38 a.m.

AGENDA

MOTION: Robert Skinner moved, seconded by Bonnie Gift, to approve the agenda as published. Motion carried unanimously. (Ron Malone was not present for voting.)

APPROVAL OF MINUTES (9/17/02)

MOTION: Bonnie Gift moved, seconded by Rick Unbehaun, to approve the minutes of 9/17/02 as published. Motion carried unanimously.

ADMINISTRATIVE REPORT

Cletus J. Hansen, Bureau Director

• **Board Roster**

The Board members introduced themselves to Mr. Malone and he provided information about his background.

Clete Hansen stated that Minnie Brye, William Dyess and Clyde Austin had come to the meeting, expecting to discuss a complaint with the board. Mr. Hansen said that he had advised them that it would not be possible to discuss their complaint with the Board at this time; however, they could discuss it with the investigator.

Roy Pfeffer explained the procedures for processing complaints.

- **Meeting Dates for 2002 and 2003**

Noted. Ron Malone advised that the 2003 dates fit his schedule at this time.

- **Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules**

Noted and briefly explained.

- **To-Do List**

The To-Do list was reviewed and all items had been done.

- **To-Pass Folder**

The To-Pass Folder was circulated to the Board members.

LEGISLATIVE UPDATE

Myra Shelton, Executive Assistant and Legislative Liaison, explained the legislative process and the procedures that she follows for legislation requested by the boards and for legislation that is not requested by the boards, but which impacts on the boards. She also offered advice and counsel for getting legislation introduced and passed, as well as working with the legislature.

Ms. Shelton passed out copies of the Department's internal/external legislation flow chart on "How a Bill Proposal Becomes Law" and a legislative bill drafting status chart, showing all of the Board's legislative drafting requests and the LRB bill drafts that she had prepared for review and discussion with the Board.

Regulation of Crematories – LRB 2804/P4

Ms. Shelton said that this proposal will have to be redrafted for the 2003 session. She advised the Board that it should consider who should be authors/sponsors of this bill after the Chairs and members of the legislative standing committees have been appointed. She said we will know this information in January 2003 when the session starts. The Board informed Ms. Shelton that Roy Pfeffer and William Cress should be the Board contacts on this proposal and that former Board member, Dan Densow, should be listed as an additional contact.

Legislative Proposals For 2003

Ms. Shelton inquired about the Board's expectations, relating to eliminating the certificates in good standing legislation. The Board informally agreed that this proposal should not be pursued at this time. The Board agreed with Clete Hansen's recommendation that the Board consider clarifying a few issues in the Administrative Code. The Board requested that the next agenda packet include a copy of the letter that Judy Mender sends to persons holding a certificate in

good standing and that Ms. Mender provide a report at the next meeting about the number of individuals currently holding certificates in good standing.

Statutory Requirements in s. 445.095, Stats.

Ms. Shelton said that Board's "Request For Legislation" that had been requested in September 2000 had been sent to the LRB for drafting; however the proposal will have to be redrafted for the 2003 session. This proposal contains provisions relating to apprenticeship requirements, eliminating semi-annual reports and changing the permit fee. The Board discussed whether it still has the same position regarding the statutory amendments that were addressed in three motions that were passed by the Board on July 18, 2000.

MOTION: William Cress moved to reaffirm the three motions made by the Board at the meeting of July 18, 2000. **There was no second.**

MOTION: Rick Unbehaun moved, seconded by Robert Skinner, to rescind the motion to eliminate the requirement that an applicant have sophomore standing before being eligible for receiving an apprentice permit. Roll call vote: Unbehaun – Yes, Cress – No, Gift – Yes, Malone – No, Skinner – Yes, Pfeffer – No. **Motion failed**, with a 3 to 3 vote.

Since the motion failed, the motion of July 18, 2000, continues to apply to this matter. Ms. Shelton advised that the Board and the Department should, when lobbying the bill, inform legislators that the Board's position on the sophomore standing issue was not unanimous.

Erin Longmire informed the Board that the Funeral Service Alliance of Wisconsin and the Wisconsin Funeral Directors Association have been discussing statutory revisions, relating the definition of funeral homes and requirements for embalming rooms.

CONTINUING EDUCATION POLICIES AND PROCEDURES

Clete Hansen advised that Lydia Bridge has nothing more to report than what she reported at the last meeting. Mr. Hansen said that Ms. Bridge did refer seven continuing education complaints to the Division of Enforcement. Roy Pfeffer reported that those complaints have been assigned to him, as case advisor. Jack Temby later informed the Board as to the prosecutor and paralegal staff person who have been assigned to these cases.

EXAMINATION ISSUES

None

BOARD MEMBER ACTIVITY

Board members gave brief reports.

PRACTICE QUESTIONS

- **Embalming in Places Other Than a Licensed Funeral Home**

Roy Pfeffer said that he had received a letter, dated October 16, 2002, from the Wisconsin Funeral Directors Association, asking whether embalming can be done at places other than a licensed funeral home. The Board referred to s. HFS 136.03 (2), Wis. Admin. Code, and noted the list of places where embalming may be performed. Someone noted that the mortuary science program has an embalming room at MATC and wondered whether they were in compliance with HFS 136. The Board requested that staff obtain more information about the approval of an embalming room at MATC and that a written response to the WFDA's letter be prepared for review at the next Board meeting.

- **Removals by Apprentices**

Clete Hansen said that he had received a telephone call from Jamie Heise, asking whether an apprentice may make removals unaccompanied by a licensed funeral director. The Board informally concurred with Mr. Hansen's conclusion that the Attorney General's Opinion did state that apprentices may conduct removals. In addition, the requirements listed in the Funeral Director Apprenticeship Training Workbook must be followed. Specifically, the first six removals must be done with direct supervision.

A member of the public inquired whether a non-licensed person may accompany the apprentice when the apprentice conducts removals after the first six removals. The Board discussed this issue; however the Board did not attempt to give a final answer to the question.

- **Charges For Cash Advances**

Clete Hansen informed the Board about an e-mail inquiry he received from David W. Nixon of Funeral Management Service, Inc., in Springfield, IL. Mr. Nixon had asked whether a funeral home may charge more for a cash advance item than it costs the funeral home. The Board noted that there is nothing specific in the Board's rules about this issue, except that there is a definition of "cash advance" and there is a provision, saying "unprofessional conduct" includes giving misleading or deception information to a family. Therefore, the answer appears to be yes. The Board also referred to the FTC disclosure requirements and advised that a person would have to comply with these requirements.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Roy Pfeffer distributed a copy of a presentation outline, prepared by Scott Gillian, General Counsel of the National Funeral Directors Association, entitled The Right of Disposition.

NEW BUSINESS

None

PUBLIC COMMENTS

None, in addition to those already made.

CLOSED SESSION

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; to consider licensure or discipline (s. 19.85(1)(b), Stats.; to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Motion carried by roll call vote: Roy Pfeffer-yes, Rick Unbehaun-yes, William Cress-yes, Bonnie Gift-yes, Robert Skinner-yes and Ron Malone - yes.

Open Session recessed at 12:05 p.m. and the Closed Session began at 12:30 p.m.

The Board discussed the Case Status Report with Jack Temby, Henry Sanders and Willie Garrett.

RECONVENE TO OPEN SESSION

MOTION: Rick Unbehaun moved, seconded by William Cress, to reconvene into open session at 1 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, that any correspondence prepared by the Department to express the position of the Board on a regulatory matter under its jurisdiction should come before the Board before going out, except in emergency situations, in which case the Bureau Director should call the Chair and a decision should be made as to whether to call a telephone conference meeting or proceed otherwise. Motion carried unanimously.

ADJOURNMENT

MOTION: Bonnie Gift moved, seconded by Robert Skinner, to adjourn the meeting at 1:15 p.m. Motion carried unanimously.